

Sai Malena Jimenez Fogarty
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December 27, 2024

The Honorable Judge Gabriel Gorenstein

United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Sai Malena Jimenez-Fogarty v. Thomas Fogarty, et al. Case No.: 1:24-CV-08705-JLR

Dear Honorable Judge Gorenstein,

Happy holidays. I would like to express my gratitude for your attention to this case, the extension to amend my complaint and your orders thus far. The purpose of this letter is to clarify certain matters that have recently arisen.

Firstly, I currently lack the ability to upload documents directly to PACER and am limited to viewing documents only. The Pro Se Intake Unit typically operates within a 24–48-hour timeframe for document uploads; however, there have been instances where it has taken over a week, and, on one occasion, the document was not uploaded at all. This issue occurred with the redacted evidence exhibits that were due on December 16, 2024. I personally redacted all 274 pages, ensuring the document was scanned and appropriately compressed for email submission. I emailed the redacted document to the Pro Se Intake Unit on December 16, 2024, at 7:42 p.m. (see attached Exhibit 1). Despite this, three days elapsed without the document being uploaded, and I assume this delay resulted from the document exceeding the size limitations.

Subsequently, on December 19, 2024, I appeared in person at the court and submitted the following documents directly to the Intake Unit: the redacted exhibits, proof of service, and a motion to disqualify the law firm Cole Schotz due to conflicts of interest, as they are indirectly affiliated with me.

The motion to dismiss was not uploaded to PACER, but instead, the redacted exhibits were uploaded under the title "Motion to Dismiss" (Document 34). Upon contacting the Pro Se Intake Unit, I re-submitted the motion to dismiss via email, and it was uploaded again with the same title, along with the 274-page exhibits (Document 36). To ensure clarity and to avoid any further confusion, I have attached the Motion to Dismiss, to this letter for your consideration and to ensure it is received by all parties. (See attached exhibit 2).

I apologize for submitting the motion to dismiss without prior court approval; I was unaware of the specific rule regarding this. I am in the process of reviewing and familiarizing myself with the court's rules to prevent such issues in the future.

To clarify, I am not complaining regarding the Pro Se Intake Unit, which I hold in high regard. I fully understand that, given the volume of pro se litigants, and the holiday season, the number of documents to be processed may be higher than usual. My intention in bringing this matter to your attention is simply to ensure that you are aware I have submitted my documents on the required dates as I remain fully committed to complying with all deadlines. Additionally, I have submitted a motion requesting access to upload my own documents directly to PACER, which I believe will prevent these types of delays going forward.

Regarding service of process, all seven defendants were served on November 18, 2024, in compliance with Federal Rule of Civil Procedure 4(l)(1). Attached to this letter is the proof of service for each defendant (Exhibit 3). These documents were part of the materials I dropped off on December 19, 2024; however, they were not uploaded.

Lastly, while I am hopeful that I will soon gain direct access to upload documents, I respectfully request that the Court consider the potential delays that may affect my ability to respond within the prescribed deadlines. This is particularly pertinent for motions to dismiss, which require a response within two business days, should I not yet have the ability to upload directly to PACER.

Thank you for your attention to these matters. I look forward to your guidance and any further instructions the Court may have. Happy new year to all.

Sincerely,

Sai Malena Jimenez Fogarty